

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

FILED
JAMES BONINI
JUL 14 AM 11:21
SOUTHERN DIST. OHIO
WESTERN DIV. DAYTON

LAWRENCE JONES,

Plaintiff,

:

Case No. UNASSIGNED

Unassigned

Chief Magistrate Judge Michael R. Merz

-vs-

DR. SOUTH, et al.,

:

3 : 05 mc 0016

THOMAS M. ROSE
MICHAEL R. MERZ

Defendants.

REPORT AND RECOMMENDATIONS

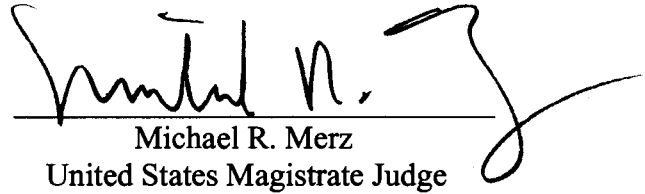
This matter is before the Court on Plaintiff's Application for Leave to Proceed *in forma pauperis*.

Under the Prison Litigation Reform Act of 1995 Title VIII of P.L. 104-134, 110 Stat. 1321(effective April 26, 1996)(the "PLRA"), a prisoner who has on three or more prior occasions while incarcerated or detained in any facility brought an action or appeal in a court of the United States that was dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief could be granted is barred from proceeding *in forma pauperis* unless he or she is under imminent danger of serious physical injury. Plaintiff's Complaints in Case Nos. 3:04-cv-096, 3:04-cv-268 in this Court were dismissed on bases listed in the statute. In addition, Plaintiff discloses in his Application a number of other dismissed federal cases which, given their captions, were plainly frivolous.

It is therefore respectfully recommended that Plaintiff's Application to Proceed *in forma pauperis* be denied and he be required to pay the full filing fee of \$250.00

The Clerk is ORDERED to open this as a civil case, assign it to a District Judge and Magistrate Judge, and forward it to the assigned Magistrate Judge for further analysis under 28 U.S.C. §1915(e)(2).

July 13, 2005.


Michael R. Merz
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).

H:\DOCS\Jones v. Dr. South 01.wpd

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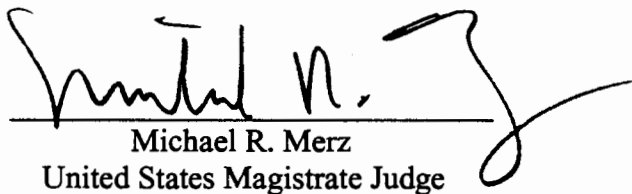
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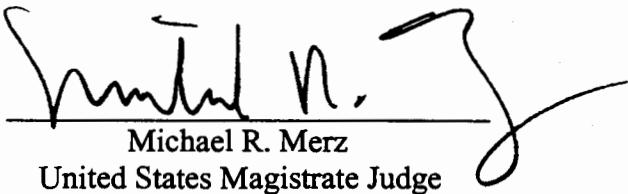
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